



ZFK

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Pei KAN et al. Confirmation No: 5546  
Appl. No. : 10/748,192  
Filed : December 31, 2003  
Title : THERMOGELLING EMULSIONS FOR SUSTAINED RELEASE OF BIOACTIVE SUBSTANCE

TC/A.U. : 1609  
Examiner : S. Farzaneh

Docket No.: KANP3002/REF  
Customer No: 23364

**RESPONSE TO ELECTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in response to the Official Action of September 21, 2007, in connection with the above identified application. This response is timely filed.

The Official Action is an election requirement in which it is urged that the application contains claims directed to patentably distinct species as set forth on page 2 of the outstanding Official Action. It is further indicated that claims 3, 8 and 9 are currently generic. Applicants make the election of species as follows:

Temperature sensitive polymer - PEG-PLGA-PEG (claim 3)  
Physiologically acceptable oil phase carrier - Lipiodol (claim 8)  
Bioactive substance - Protein (claim 9)

Applicants make the election with traverse and request rejoinder after the search of the elected species and an indication of allowable subject matter. Moreover, applicants reserve the right to file one or more divisional applications on the non-elected inventions at a later time.

Appl. No. 10/748,192  
Response dated: October 19, 2007  
Reply to OA of: September 21, 2007

There are no reasons set forth in the official Action as to why the species are patentably distinct or place an undue search burden on the Office. The polymer is an aqueous phase temperature sensitive polymer. Moreover, there is not indication why the limited group of specified polymers in claim 3 are patentably distinct or place an undue search burden on the office. Accordingly, this aspect of the election should be withdrawn.

This is similarly true with respect to the oil phase carrier of claim 8 and the Bioactive substance of claim 9. There are no reasons set forth why these species are patentably distinct and this aspect of the requirement is most respectfully traversed. Moreover, applicants are entitled to a reasonable number of species to be considered in the application and as encompass by the claims now present in the application.

The claims readable on the elected invention are claims 1-4 and 7-10.

In view of the election of species, with traverse, an early and favorable action on the merits is now believed to be in order and is most respectfully requested.

Respectfully submitted,

BACON & THOMAS, PLLC

By: Richard E. Fichter  
Richard E. Fichter  
Registration No. 26,382

625 Slaters Lane, Fourth Floor  
Alexandria, Virginia 22314  
Phone: (703) 683-0500  
Facsimile: (703) 683-1080  
REF/cjw  
Response to ER.wpd  
October 19, 2007